

Remarks

Claims 1-20 are pending in the current application, with claims 1-3 each being independent claims. Claims 1-3 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,791,141 to Phillips (hereafter “the Phillips patent”). Furthermore, claim 2 stands objected to under 37 C.F.R. § 1.75 as being a substantial duplicate of claim 1. These rejections and objections are respectfully traversed.

Claims 4-20 are new claims and depend from independent claims 1-3, respectively.

I. The Objection of Claim 2 Should be Withdrawn

Claim 2 stands objected to under 37 C.F.R. § 1.75 as being a substantial duplicate of claim 1. Applicants respectfully traverse this objection for the following reasons.

MPEP § 706.03(k) states that Applicants have a “right to restate (i.e., by plural claiming) the invention is a reasonable number of ways. Indeed, a mere difference in scope has been held to be enough.” *See* MPEP § 706.03(k). Applicants respectfully submit that there is a difference in the scope of claims 1 and 2 due to the difference in language of the claims. These and other differences are apparent from a cursory review of claims 1 and 2. Therefore, Applicants respectfully submit that claims 1 and 2 have a different scope and are therefore permissible under 37 C.F.R. § 1.75 as interpreted in MPEP § 706.03(k). Therefore, Applicants respectfully request that the Examiner withdraw the objection to claim 2.

II. Claims 1-3 are Allowable over the Phillips Patent

Claims 1-3 stand rejected under 35 U.S.C. § 102(b) as being anticipated by the Phillips patent. For the foregoing reasons, this rejection is respectfully traversed.

Claims 1 and 2 recite a “substantially rigid tubular element”. Similarly, claim 3 recites a “substantially rigid tube”. These features, in combination with the other features of independent claims 1-3 are not disclosed or suggested by the Phillips patent, and therefore, the rejection should be withdrawn.

The Phillips patent, in contradistinction to the claimed invention discloses that the tubular element is a “volumetrically compliant member”. Col. 11, lines 60-61. These volumetrically compliant members are not “substantially rigid” as recited in claims 1-3. Phillips discloses that “[t]he volumetrically complaint members are formed of high expansion hose” which may expand “volumetrically by about 50%”. Col. 5, lines 61-64. The volumetrically complaint members are necessary for the proper functioning of the device disclosed in the Phillips patent. If rigid members were used, the device would not function analogously to a low pass filter. *See* col. 3, lines 14-37. Therefore, Phillips patent fails to disclose or suggest the claimed “substantially rigid” tubular element or tube, as recited in claims 1-3.

For at least the foregoing reasons, Applicants respectfully submit that claims 1-3 are allowable over the Phillips patent. Therefore, Applicants respectfully request that the Examiner withdraw the rejections of claims 1-3.

III. Claims 4-20 are Allowable

Claims 4-20 have been added by way of amendment. These claims find their support throughout the specification, including, for example, in FIGS. 1, 2, and 16-21 and the description thereof. Claims 4-20 depend from claims 1-3 and are allowable for at least the foregoing reasons. Therefore, Applicants respectfully request that the Examiner indicate that claims 4-20 are in condition for allowance.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael J. Bell", is written over a horizontal line.

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